

Formal drawings of the modification and new figures will be provided.

REMARKS

Amendments

A new, substitute specification has been submitted pursuant to 37 C.F.R. §1.125. The substitute specification contains no new matter. Both a clean copy of the substitute specification and a Marked up version of the substitute specification are attached.

The substitute specification incorporates amendments which reflect the addition of two new drawings, Fig.6 and Fig. 7. The specification also includes the clarification that the reinforcement 40 of the container includes any reinforcement structure including strut and/or reinforcing panels. Antecedent basis for the reinforcing panels is found in original Figures 2-5 as determined by the Examiner.

Fig. 2 has been amended to add call numerals 50 and 51, to the tab 50 and slot 51 attachment arrangement. This is a formal addition to identify the tab and slot arrangement originally disclosed in the original specification at Page 5, line 28-29 and in original Claim 5.

Figs. 2 and 6 have been amended to reflect a preferred embodiment wherein the container (plastic) and the reinforcement (cardboard) are made from dissimilar materials. Antecedent basis for this modification is found at least in the specification at page 7, lines 10-17.

Claim 1 has been amended to clarify that the strut comprised in the container is the same one used to reinforce the sidewalls of the container. Attached hereto is a marked-up version of the changes made to the Claims by the current amendment captioned "Version of Claims with Markings to Show Changes Made".

New Claims 21-38 have been added to claim the specific embodiments of the present containers comprising reinforcing panels as the reinforment to the side walls. Again, antecedent basis for the reinforcing panels is found in original Figures 2-5. After entry of this amendment, Claims 1-5, 8-14, 16-17 and 21-34 remain pending in the application and are before the Examiner. An additional claims fee has been authorized in the RCE Transmittal Form to account for the additional claims.

Figures 6 and 7 have been added to depict the preferred embodiments of the container of the present invention wherein the reinforcement 40 comprises struts. Antecedent basis for these Figures can be found throughout the original specification.

Summary of the Invention

The present invention relates to a container having a plurality of upstanding sidewalls interconnected by a floor pan, where at least one of the sidewalls is reinforceable with a reinforcement which may comprise a strut and/or a reinforcing panel, where the strut and/or reinforcing panel is removable from the sidewall without separation from the container itself.

Objections to Drawings under 37 C.F.R. §1.83(a)

The Examiner has objected to the drawings as not showing every feature specified in the claims and also has objected to Claims 2, 3, 5, 7-9, and 13-15 as not being represented within the drawings. Applicant traverses these objections as being moot in light of modified Fig. 2 and newly presented Figs. 6 and 7.

Claim 2 - The Examiner states that "the strut being articulably joined to said sidewall at said proximal end" is not shown in the drawings. Applicant submits that the embodiment of a container having a strut which is articulably joined to the sidewall at the proximal end of the strut is clearly depicted in Figures 6 and 7 of the application. Strut 42 is attached to the sidewall in this embodiment at the bottom of the sidewall via a hinge joint to a floor pan support which extends the full length of the floor pan such that the hinge is at the intersection of the floor pan and the sidewall. Therefore, Figures 6 and 7 clearly represent the features of Claim 2 and this objection should be withdrawn.

Claim 3 - The Examiner states that "the strut is joined to the container at a hinge juxtaposed with the floor pan" is not shown in the drawings. Applicant submits that the embodiment of a container having a strut which is articulably joined to the container at a hinge juxtaposed with the floor pan is also clearly depicted in Figures 6 and 7 of the application. Strut 42 is attached to the sidewall in this embodiment at the bottom of the sidewall via a hinge joint to a floor pan support which extends the full length of the floor pan such that the hinge is juxtaposed to the floor pan at the intersection of the floor pan and the sidewall. Therefore, Figures 6 and 7 clearly represent the features of Claim 3 and this objection should be withdrawn.

Claim 5 - The Examiner states that "the protruding tabs and slots arrangement" is not shown in the drawings. Applicant submits that the embodiment of a container having a tab 50 and slot 51 arrangement with the strut is clearly depicted in modified Figure 2 and Figure 6. In fact, the Figure 2 depicts an embodiment having a combination of two such attachment arrangements. In the figures, the distal end 46 of the strut 42 is bent to form a

tab which is inserted into a slotted space below the flanged mouth of the container. Further, the distal end of the strut is shown to have cut slots through which tabs formed in the flange are inserted to further fasten the distal end of the strut to the container in order to support the sidewalls. Therefore, Figures 2 and 6 clearly represent the features of Claim 5 and this objection should be withdrawn.

Claim 7 - The Examiner states that "the strut having reinforcing ribs" is not shown in the drawings. Applicant submits that this objection is moot, given the fact that Claim 7 has been cancelled in the presented amendments.

Claim 13 - The Examiner states that "the first and second materials of dissimilar material" of Claim 13 are not shown in the drawings. Applicant submits that modified Figure 2 and new Figure 6 clearly depict separate material for the container 10 and the reinforcement 40 as different materials. Therefore, Applicant submits that the objection to claims 13 and 15 are improper and should also be withdrawn.

Claim 15 - The Examiner states that "the identical composition and second gauge being greater than the first gauge" of Claim 15 are not shown in the drawings. Applicant submits that this objection is moot, given the fact that Claim 7 has been cancelled in the presented amendments.

Rejection under 35 U.S.C. 112, first paragraph

The Examiner has rejected Claims 1-17 under 35 U.S.C. §112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains. The Examiner objects to the word "strut" as used in the present application. The Examiner indicates that a strut is a bar or rod used to brace a structure against forces from the side. Applicant traverses this rejection as applied to the amended Claims.

Applicant submits that the reinforcement 40 of the container of the present invention may comprise either a strut as defined by the Examiner and now illustrated in Figs. 6 and 7, or a reinforcing panel as defined by the Examiner, originally illustrated in Figs. 2-5. The fact that Applicant demonstrates preferred embodiments with reinforcement which comprise either a strut or a panel does not preclude other possible geometries of reinforcements. 35 U.S.C. §112, first paragraph requires clear and concise disclosure as to enable a person skilled in the art to make and use the invention. Further, §112 allows for the applicant to be his own lexicographer to clearly teach his invention. The specification, including the drawings, of the present application clearly teach the use of any rod or bar, i.e.

strut, to reinforce the sidewalls of the container or the present invention. Therefore, Applicant requests that the rejection of Claims 1-17 under 35 U.S.C. §112, first paragraph be withdrawn.

Rejections under 35 U.S.C. §112, second paragraph

The Examiner has rejected Claims 1-5, 8, 9 and 17 under 35 U.S.C. §112, second paragraph as being indefinite because Claim 1 twice recited independent upstanding struts within the claim. Applicant traverses this rejection as applied to the amended claims. Claim 1 has been amended herein to reflect that the at least one strut comprised in the container are the same strut used to reinforce the sidewalls of the container. Applicant submits that these amendment provide proper antecedent basis for Claim 1 and therefore the rejection should be withdrawn.

Rejections under 35 U.S.C. §102(b)

The Examiner has rejected Claims 1-4 and 17 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,002,194, issued to Nichols on March 26, 1992 (hereinafter "Nichols"). Applicant respectfully traverses this rejection.

In order for a claim to be anticipated by a reference, each and every element of the claim must be found in the single, prior-art reference. Kalman v. Kimberly-Clark Corp., 713 F.2d 760 (Fed. Cir. 1983), In re Bond, 910 F.2d 831 (Fed. Cir. 1990). Nichols relates to a reusable mesh shipping container for transportation of bulk liquid materials consisting of a box-like wire mesh outer container and a blow molded inner tank. The mesh outer container and the inner tank are two separate pieces such that the inner tank is easily removed when it is empty. The outer container is a complete box structure to contain the plastic bag-like inner tank, therefore there are no independent struts used to support the sidewalls of the inner tank. Nowhere is it taught or suggested that the outer box structure must be connected to the inner bag.

In contrast, the container of the present invention, itself comprises both the basic container and at least one removable reinforcement strut or panel which is not separated from the container. In preferred embodiments, the strut is articulably joined to the sidewall. Applicant submits that Nichols does not teach the critical strut element of the present container, nor does it teach the requirement that the strut be removable from the sidewalls without separation from the container. Therefore, the containers of the above-identified

application cannot be anticipated by Nichols and the rejection of Claims 1-4 and 6-9 should be withdrawn.

The Examiner has rejected Claims 10-13 and 16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 4,801,017, issued to Artusi on January 31, 1989 (hereinafter "Artusi"). Artusi relates to a container comprising a inner tray and an outer blank. It is critical to the invention that the rim of the blank and the edge strip of the tray are sealed together in order to increase the thermal stability of the geometry of the inner tray. Therefore, no elements of the blank is removable from the inner tray. This is in direct contrast to the struts of the present invention which reversibly transform between a first position where the struts provide reinforcement to the sidewalls and a second position where the struts do not provide any reinforcement. The containers of Artusi clearly do not provide this flexibility. Again, Applicant submits that Artusi does not teach each and every element of the present invention and therefore cannot anticipate the claims therein. Applicant respectfully requests that the rejection of Claims 10-13 and 16 over Artusi should be withdrawn.

*What about
the rim of the blank
and the edge strip of the tray?*

The Examiner has rejected Claims 10-13 under 35 U.S.C. §102(b) as being anticipated by U.K. Patent Application GB2194514A, published by inventor Harrison on March 9, 1988 (herein after "Harrison"). Harrison relates to composite packages comprising an inner container and an outer case permanently affixed to each other. The container and case are connected by engaging projections and apertures or bonding or sealing. The outer case does not have struts nor any other element which can be removed from a reinforcing position while remaining attached to the container. This is again in direct contrast to the struts of the present invention which reversibly transform between a first position where the struts provide reinforcement to the sidewalls and a second position where the struts do not provide any reinforcement. The containers of Harrison clearly do not provide this flexibility. Applicant submits that Harrison does not teach each and every element of the present invention and therefore cannot anticipate the claims therein. Applicant respectfully requests that the rejection of Claims 1, 4, 5 and 10-13 over Harrison should be withdrawn.

Rejection under 35 U.S.C. §103(a)

The Examiner has rejected Claims 5, 8 and 9 under 35 U.S.C. §103(a) as being obvious over Nichols in view of Harrison. The Examiner states that Nichols discloses the invention except for the tab/slot arrangement with tabs on the side wall. To properly reject a claim under 35 U.S.C. §103, the prior art references must teach or suggest all of the claim limitations. MPEP §2143.03; In re Royka, 180 USPQ 580 (CCPA 1974).

As described above, neither Nichols nor Harrison teach or suggest all of the elements of the container with reinforceable sidewalls with struts or panels. The elements not taught include the the critical reinforcement element of the present container, nor does it teach the requirement that the element be removable from the sidewalls without separation from the container. Since all of the elements of the present invention are not taught or suggested in Nichols or Harrison, taken separately or together, the present container cannot be properly rejected of these references. Applicant submits that this rejection should be withdrawn.

The Examiner has rejected Claim 14 under 35 U.S.C. §103(a) as being obvious over Artusi or Harrison. The Examiner states that Artusi and Harrison each disclose the invention except for the cardboard is not fluted and that it would be obvious to use fluted cardboard instead of the cardboard of Artusi. Applicant traverse this rejection.

As described above neither Artusi nor Harrison teach or suggest all of the claim limitations of the containers of the present application. Neither Artusi nor Harrison teach containers comprising removable struts which reversibly transform between a first position where the struts provide reinforcement to the sidewalls and a second position where the struts do not provide any reinforcement. Therefore, the rejection of Claim 14 under 35 U.S.C. §103(a) is improper and should be withdrawn.

The Examiner has rejected Claim 15 under 35 U.S.C. §103(a) as being obvious over Harrison. Applicants submit that this rejection is moot since Claim 15 has been cancelled.

CONCLUSION

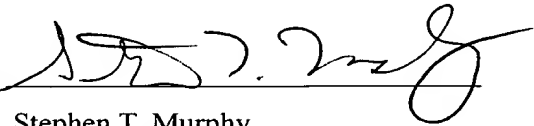
Applicant respectfully submits that, for the reasons outlined above, Claims 1-5 and 8-17 are definite and properly enable one skilled in the art to produce the container of the above-identified application. Also, Applicant submits that the container defined in

amended Claims 1-5, 8-14, 16-17 and 21-34 are clearly novel and nonobvious over the references cited by the Examiner, taken separately or together. For the reasons presented above Applicant requests that the rejections under 35 U.S.C. §§102(b), 103(a) and 112, first and second paragraph as applied to the amended claims be withdrawn and that Claims 1-5, 8-14, 16-17 and 21-34 be allowed.

Respectfully submitted,

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Version of Claims with Markings to Show Changes Made

1. (Twice Amended) A container having a plurality of upstanding sidewalls interconnected by a floor pan and at least one upstanding strut, wherein at least one of said sidewalls is reinforceable with ~~an~~ at least one of the upstanding strut, said strut being removable from said sidewall without separation from said container.